

108TH CONGRESS
2D SESSION

H. R. 3754

To provide additional civil and criminal remedies for domain name fraud.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2004

Mr. SMITH of Texas (for himself and Mr. BERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide additional civil and criminal remedies for domain name fraud.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fraudulent Online
5 Identity Sanctions Act”.

6 **SEC. 2. AMENDMENT TO TRADEMARK ACT OF 1946.**

7 Section 35 of the Act entitled “An Act to provide for
8 the registration and protection of trademarks used in com-
9 merce, to carry out the provisions of certain international
10 conventions, and for other purposes”, approved July 5,
11 1946 (commonly referred to as the “Trademark Act of

1 1946”; 15 U.S.C. 1117), is amended by adding at the end
 2 the following new subsection:

3 “(e) In a case of a violation referred to in this section,
 4 occurring at or in connection with an online location, the
 5 violation shall be considered to be willful for purposes of
 6 this section if the violator, or a person acting in concert
 7 with the violator, knowingly provided material and mis-
 8 leading false contact information to a domain name reg-
 9 istrar, domain name registry, or other domain name reg-
 10 istration authority in registering a domain name used in
 11 connection with the online location, or in maintaining or
 12 renewing such registration.”.

13 **SEC. 3. AMENDMENT TO TITLE 17, UNITED STATES CODE.**

14 Section 504(c)(2) of title 17, United States Code, is
 15 amended by adding at the end the following new sentence:
 16 “In a case of infringement occurring at or in connection
 17 with an online location, the infringement shall be consid-
 18 ered to be willful for purposes of this paragraph where
 19 the copyright owner sustains the burden of proving, and
 20 the court finds, that the infringer or a person acting in
 21 concert with the infringer knowingly provided material
 22 and misleading false contact information to a domain
 23 name registrar, domain name registry, or other domain
 24 name registration authority in registering a domain name
 25 used in connection with the online location, or in maintain-

1 ing or renewing such registration. For purposes of the pre-
 2 ceding sentence, the term ‘domain name’ has the meaning
 3 given that term in section 45 of the Act entitled ‘An Act
 4 to provide for the registration and protection of trade-
 5 marks used in commerce, to carry out the provisions of
 6 certain international conventions, and for other purposes’
 7 approved July 5, 1946 (commonly referred to as the
 8 ‘Trademark Act of 1946’; 15 U.S.C. 1127).”.

9 **SEC. 4. AMENDMENT TO TITLE 18, UNITED STATES CODE.**

10 Section 3559 of title 18, United States Code, is
 11 amended by adding at the end the following:

12 “(f) SENTENCING ENHANCEMENT FOR FALSIFICA-
 13 TION RELATING TO DOMAIN NAMES IN CONNECTION
 14 WITH OFFENSES.—The maximum imprisonment other-
 15 wise provided by law for a felony offense shall be increased
 16 by 7 years if, in furtherance of that offense, the defendant
 17 knowingly provided material and misleading false contact
 18 information to a domain name registrar, domain name
 19 registry, or other domain name registration authority in
 20 connection with a domain name registration. For purposes
 21 of this subsection, the term ‘domain name’ has the mean-
 22 ing given that term in section 45 of the Act entitled ‘An
 23 Act to provide for the registration and protection of trade-
 24 marks used in commerce, to carry out the provisions of
 25 certain international conventions, and for other purposes’,

1 approved July 5, 1946 (commonly referred to as the
2 ‘Trademark Act of 1946’; 15 U.S.C. 1127).”.

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